

Misc. Civil Application No. 838 of 1995.

Coram: S.M. Soni & R.R. Jain, JJ.

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August 29, 1996.

Order:

Alleging that the order passed by the Education Tribunal on 29.7.1994 and corrected in Review Application on 28.7.1995 is not complied with the present application under the Contempt of Courts Act came to be filed. By the order of 29.7.1994 the Tribunal directed reinstatement with all backwages, continuity of service and accruing salary, holding that oral termination of 28.8.1992 of the petitioner/teacher is bad. This court issued notice to respondents and respondent No.1 through the Managing Trustee has filed affidavit in reply wherein it is specifically averred that they have now followed the procedure under Section 40B of the Primary Education Act. The Tribunal had by its order dated 29.7.1994 permitted the management to take action in accordance with law under Section 40B of the Primary Education Act. Now, when the management has taken such action, the question of challenge to order of July 1994 does not survive and the said order is not enforceable to that extent. However, so far as the claim of salary is concerned, this court has in the case of Girish Chandra 1996 (1) GLH 523, has held that the same can be recovered by executing the order under the Civil Procedure Code. If the order can be executed, contempt proceeding is not a substitute for the same as held in the case of the Alahar Co-operative Credit Service Society v. Sham Lal, 1995 (2) GLH 550. Hence, the application is not maintainable and is liable to be dismissed.

In the result, the application is dismissed. Notice discharged.

29.8.1996. (S.M. Soni, J.)

(R.R.Jain, J.)